

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 86344-001

v

Humana Insurance Company
Respondent

Issued and entered
this 28th day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On November 15, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services on under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On November 26, 2007, after a preliminary review of the material submitted, the Commissioner accepted the request.

The Commissioner notified Humana Insurance Company of the external review and requested the information used in making its adverse determination. The Commissioner received the information from Humana on November 19, 2007.

The issue here can be decided by a review and analysis of the Petitioner's health care policy. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). It is not necessary to get a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner has insurance under a small group plan with Humana. On August 26, 2007 the Petitioner received treatment in the emergency room of XXXXX. Humana applied its discounted amount for the covered services to the Petitioner's \$1,000.00 annual deductible. After the Petitioner appealed, Humana reviewed the claim but upheld its decision and sent the Petitioner a final adverse determination dated November 7, 2007.

III ISSUE

Did Humana correctly process the Petitioner's claims for the emergency room services provided on August 26, 2007?

IV ANALYSIS

Petitioner's Argument

On August 26, 2007, the Petitioner sought treatment in the emergency room at XXXXX after sustaining a temperature of 103° for three days and being unable to sleep or eat during this time. The Petitioner says he went to the emergency room because he needed treatment and his physician's office and the urgent care facility were closed on Sunday. Under the circumstances, the Petitioner wants the deductible waived and only the \$100.00 copayment applied. He does not think he should be responsible for any additional charges.

Humana Insurance Company's Argument

In its November 7, 2007, final adverse determination, Humana wrote:

Outpatient physician and Emergency room services are first subject to the \$1,000.00 deductible. At the time the claims were processed the network deductible was not met. Therefore, the discounted amount was applied to the network deductible.

Humana explained that the terms of the Petitioner's coverage require him to pay the individual network deductible of \$1,000.00 for hospital outpatient healthcare practitioner and

emergency room services before Humana begins to pay its share of the cost. That requirement is found in following provisions in the policy's Schedule of Benefits (pages 17 and 18):

Hospital services

Health care practitioner outpatient services when provided in a hospital

Level 1 <i>network health care practitioner</i>	100% benefit payable after <i>Network provider deductible</i>
Level 2 <i>network health care practitioner</i>	100% benefit payable after <i>Network provider deductible</i>

Emergency services

Hospital emergency room services

<i>Network hospital</i>	100% benefit payable after <i>network provider deductible</i> and \$100.00 <i>copayment</i> per visit. <i>Copayment</i> waived if admitted.
<i>Non-network hospital</i>	100% benefit payable after <i>network provider deductible</i> and \$100.00 <i>copayment</i> per visit. <i>Copayment</i> waived if admitted.

Humana notes that emergency room benefits are offered in the Petitioner's plan because it understands there are situations that occur when treatment in a doctor's office or at an urgent care facility is not possible. However, Humana says the plan provisions are applied as shown above regardless of the circumstances. Humana states the claims from XXXXX and XXXXX were allowed and processed correctly at the network outpatient level of benefits.

Commissioner's Review

The Commissioner has carefully reviewed the arguments of the parties as well as the documents submitted and the Petitioner's policy. The Commissioner notes that the issue here is solely whether the network deductible should be applied; there is no dispute over the amount applied.

In deciding this external review, the Commissioner is bound by the terms and conditions of the policy. The Commissioner finds that Humana correctly processed the claims for emergency room services on August 26, 2007. It is unfortunate that the Petitioner had to receive services in the emergency room because his physician's office or an urgent care facility was not open. Nevertheless, as the policy advises, "some policies may require [the Petitioner] to pay a deductible before we begin to share the cost of most medical services." The policy states that hospital emergency room and outpatient practitioner services are payable at 100% only after the \$1,000.00 network provider deductible is satisfied. The Commissioner finds nothing in the policy that requires Humana to waive the deductible if care was not available in a physician's office or from an urgent care facility.

The Commissioner finds that Humana correctly processed the Petitioner's emergency room claims.

V ORDER

The Commissioner upholds Humana Insurance Company's adverse determination of November 7, 2007.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.